Nos. 1029 and 1030.

Motion & Papers for

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Supreme Court of the United States.

OCTOBER TERM, 1894.

AMADO CHAVES *et al.*
vs.
THE UNITED STATES *et al.* } No. 1029.

Grant of the Canon de San Diego.

PUEBLOS OF ZIA, SANTA ANA, AND JEMEZ
vs.
THE UNITED STATES *et al.* } No. 1030.

Ojo del Espiritu Santo Valley Grant.

Appeal from the United States Court of Private Land Claims.

In asking leave of the court to renew the motions to advance these two cases, which were overruled at the beginning of the present term, it may be somewhat of an apology for our doing so to state that if they are to stand until reached in their regular order on the calendar

of this court it will be too late for the subsequent proceedings in the court below, which are required by the statute, since the life of that court is limited to one year from December 31 next.

The material question involved in these cases is whether the grant was what is known in the Spanish law as a "perfect" grant. This question is involved of necessity in many other cases, and it is manifestly of great consequence that the court below, which is a special tribunal of limited jurisdiction and limited life, shall have the benefit of the judgment of the appellate court upon this question, which is the fundamental one in so many other cases now pending before it, before trying them.

These grants upon one line are divisible into perfect grants, which constitute a complete legal title, and inchoate grants, which are equitable titles entitled to confirmation, but subject to equitable conditions. The shadows run between this classification, and require judicial construction. Without an authoritative ruling from the appellate court it must be apparent that a great many cases must be brought up by appeal in order to save questions, which, if decided here now, would be adopted as a rule of construction in other cases, and lead to their full adjudication without appeal.

Case No. 1029 was decided adversely to the appellants, who were the petitioners below, by three members of the court, the other two filing elaborate dissenting opinions.

The fundamental question involved in the appeal is whether this particular grant is a "perfect" one, and this question depends upon whether or not it is affected by an alleged condition subsequent. The decision of this question involves several important legal propositions, which must be more or less material in a large number of cases and fundamental in a great many now before the court

below, and it would seem to be a matter of general interest that said court should have the benefit of the decision of this court on this question at as early a day as practicable.

In case No. 1030 the question upon which the decision was rested is solely one of law, to wit, the construction of the grant, whether it is in its nature an absolute grant or a mere license to pasture, the court below having decreed that the petition be dismissed, "the grant not being in fee, but a license to pasture."

The decision of the main question in this case is believed to involve a number of legal questions of interest in many cases, and it would seem to be of general importance that these questions should be considered by this court as early as practicable in order that the court below may have the advantage of said decision in the consideration of other cases, both to facilitate the administration of justice and to avoid the necessity of multiplying appeals.

JEFFRIES & EARLE,
Attorney for Actors.

1417 G St. N. W., March 1, 1894.